

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LUIS MATHANIEL MENESES, Petitioner,	:	PRISONER HABEAS CORPUS 28 U.S.C. § 2254
	:	
	:	
v.	:	
	:	
WARDEN TERRY, Respondent.	:	CIVIL ACTION NO. 1:06-CV-2031-TWT

ORDER and OPINION

On September 22, 2006, the Magistrate Judge issued an order requiring Petitioner to submit an amended pleading to clarify whether he intended to file a 28 U.S.C. § 2254 habeas corpus petition or a 42 U.S.C. § 1983 civil rights complaint and to pay the appropriate filing fee or seek leave to proceed in forma pauperis. The matter is before the Court on Plaintiff's Motion to Withdraw in which Petitioner indicates that he wishes to withdraw the instant action, a "petition for writ of habeas corpus pro se under 42 USC §[] 1983." (Doc. No. 4.) Petitioner also seeks the return of the various attachments to his initial pleading. (Id.)

A petitioner may voluntarily dismiss his action at any time before service on the adverse party. Fed. R. Civ. P. 41(a); Rules Governing Section 2254 Cases, Rule 11. As the record in this case is not voluminous, the Clerk shall be directed to return to Petitioner copies of the attachments to his pleading.

Accordingly, **IT IS ORDERED** that Plaintiff's motion to withdraw (Doc. No. 4) is **GRANTED**, and this action is **DISMISSED** without prejudice.

The Court **DIRECTS** the Clerk of Court to make copies of any documents submitted by Petitioner as exhibits or attachments to his pleading (Doc. No. 1) and mail those copies to Petitioner at his address of record.

IT IS SO ORDERED, this 3 day of October, 2006.



THOMAS W. THRASH, JR.
UNITED STATES DISTRICT JUDGE